

10/14/03  
17264 U.S. PTO

Patent  
Attorney Docket: 612,404-430

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

Attorney Docket No.: 612,404-430  
First Named Inventor: Donald e. Ackley  
Prior Application Information:  
Serial No. 09/204,324  
Examiner: Marschel, A.  
Art Unit: 1631

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450  
MAIL STOP PATENT APPLICATION

**FILING UNDER 37 CFR § 1.53(b)**

22154 U.S. PTO  
10/686440  
101403

This is a request for filing for a

continuation       divisional       continuation-in-part (CIP)

application under 37 CFR § 1.53(b) of pending prior application Serial No. 09/204,324 filed on December 2, 1998, in which will issue as U.S. Patent No. 6,638,482 on October 28, 2003

**Donald E. Ackley, Edward L. Sheldon and Michael K. Krihak**, entitled:

**MULTI-CHAMBERED ANALYSIS DEVICE**

For CONTINUATION or DIVISION APPS only: The entire disclosure of the prior application, from which an oath or declaration is supplied, referenced above, is considered a part of the disclosure of the accompanying continuation or divisional application and is hereby incorporated by reference. The incorporation can only be relied upon when a portion has been inadvertently omitted from the submitted application parts.

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**CERTIFICATE OF MAILING**  
(37 C.F.R. §1.10)

I hereby certify that this paper (along with any referred to as being attached or enclosed) is being deposited with the United States Postal Service on the date shown below with sufficient postage as 'Express Mail Post Office To Addressee' in an envelope addressed to the Commissioner for Patents, Alexandria, VA 22313-1450.

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Express Mail Label No.

10-14-03

Date of Deposit  
IR1:1048707.1

Denise N. Doss  
Name of Person Mailing Paper

Denise N. Doss  
Signature of Person Mailing Paper

**I. APPLICATION ELEMENTS ENCLOSED**

26 Page(s) of Written Description  
2 Page(s) of Claims  
1 Page(s) of Abstract  
5 Sheet(s) of Drawings  formal  informal  
2 Page(s) of Declaration (Copy from prior application [37 CFR §1.63(d)])  
2 Page(s) of Power of Attorney (Copy from prior application [37 CFR §1.63(d)])

An Information Disclosure Statement, PTO 1449,  with copies of cited items.

Request and Certification under 35 U.S.C. § 122(b)(2)(B)(i). Applicant must attach form PTO/SB/35

**II. FEE CALCULATION**

Applicant claims small entity status under 37 CFR 1.27.

<b>BASIC FILING FEE:</b>						\$770.00
Total Claims	8	-	20	=	0	<input type="checkbox"/> \$18.00 0.00
Independent Claims	1	-	3	=	0	<input type="checkbox"/> \$86.00 0.00
Multiple Dependent Claims	\$280	(if applicable)			<input type="checkbox"/>	0.00
<b>TOTAL OF ABOVE CALCULATIONS</b>						\$770.00
Reduction by ½ for Filing by Small Entity.				<input checked="" type="checkbox"/>		385.00
Misc. Filing Fees (Recordation of Assignment)						\$0.00
<b>TOTAL FEES DUE SUBMITTED HEREWITH</b>						\$385.00

**III. PRIORITY - 35 USC § 119**

Priority of application Serial No. \_\_\_\_\_ filed on \_\_\_\_\_ in \_\_\_\_\_ Country is claimed under 35 USC § 119.

The certified copy has been filed in prior U.S. application Serial No. \_\_\_\_\_ on \_\_\_\_\_.

The certified copy will follow.

**IV. AMENDMENTS**

Cancel in this application original Claims \_\_\_\_\_ of the prior application before calculating the filing fee. (At least one original independent claim must be retained for filing purposes if no new claims are added in a preliminary amendment.)

A Preliminary Amendment is enclosed. (Claims added by Amendment must be numbered consecutively beginning with the number next following the highest numbered original claim in the prior application.)

**V. RELATE BACK - 35 USC § 120**

Relate back information included in the specification and is as follows:

--This application is a continuation of Application Serial No. 09/204,324 filed December 2, 1998, now U.S. Patent No. 6,638,482, which is a continuation-in-part application of Application Serial No. 08/753,962, filed December 4, 1996, entitled "Laminated Assembly for Active Bioelectronic Devices", now U.S. Patent No. 6,287,517, which is a continuation-in-part application of Serial No. 08/534,454, filed September 27, 1995, entitled "Apparatus and Methods for Active Programmable Matrix Devices", now issued as U.S. Patent No. 5,849,486, which is a continuation-in-part of Application Serial No. 08/304,657, filed September 9, 1994, entitled, as amended, "Molecular Biological Diagnostic Systems Including Electrodes", now issued as U.S. Patent No. 5,632,957, which is a continuation-in-part of Application Serial No. 08/271,882, filed July 7, 1994, entitled, as amended, "Methods for Electronic Stringency Control for Molecular Biological Analysis and Diagnostics", now issued as U.S. Patent No. 6,017,696, which is a continuation-in-part of Application Serial No. 08/146,504, filed November 1, 1993, entitled, as amended, "Active Programmable Electronic Devices for Molecular Biological Analysis and Diagnostics", now issued as U.S. Patent No. 5,605,662, and Application Serial No. 08/709,358, filed September 6, 1996, entitled "Apparatus and Methods for Active Biological Sample Preparation", now issued as U.S. Patent No. 6,129,828, all incorporated herein by reference as if fully set forth herein.--

With respect to the prior co-pending U.S. application from which this application claims benefit under 35 USC § 120, the inventor(s) in this application is (are) [37 CFR 1.53(b)(1)]:

the same.

less than those named in the prior application and it is requested that the following inventor(s) identified above for the prior application be deleted [see 37 CFR §§1.33(b) AND 1.63(d)(2)]:

**VI. METHOD OF PAYMENT OF FEES**

- Attached is a check in the amount of \$385.00.
- Charge O'Melveny & Myers Deposit Account No. **500639** in the amount of
- Not attached. No filing fee is submitted. [This and the surcharge required by 37 CFR § 1.16(e) can be paid subsequently.]

**VII. AUTHORIZATION TO CHARGE ADDITIONAL FEES**

The Commissioner is hereby authorized to credit O'Melveny & Myers' Deposit Account No. **500639** or any over payment of fees and to charge the following additional fees by this paper and during the entire pendency of this application to Deposit Account No. **500639**:

- 37 CFR § 1.16 (Filing fees and excess claims fees)
- 37 CFR § 1.17 (Application processing fees)
- 37 CFR § 1.21 (Assignment recordation fees)

**VIII. POWER OF ATTORNEY & CORRESPONDENCE ADDRESS**

- The power appears in the original papers in the prior application.
- The power does not appear in the original papers, but was filed on        in prior application Serial No.       .
- A new power has been executed and is attached.

Please send all correspondence and direct all inquiries to David B. Murphy at:

34263 O'Melveny & Myers LLP  
PATENT TRADEMARK OFFICE 114 Pacifica, Suite 100  
Irvine, CA 92618-3315  
(949) 737-2900

**IX. MAINTENANCE OF CO-PENDENCY OF PRIOR APPLICATION**

- A petition, fee and response has been filed to extend the term in the pending **prior** application until       . A copy of the petition for extension of time in the **prior** application is attached.
- A conditional petition for extension of time is being filed in the pending **prior** application. A copy of the conditional petition for extension of time in the **prior** application is attached.

**X. ABANDONMENT OF PRIOR APPLICATION**

Please abandon the prior application at a time while the prior application is pending or when the petition for extension of time or to revive in that application is granted and when this application is granted a filing date so as to make this application co-pending with said prior application. At the same time, please add the words "now abandoned" to the amendment of the specification set forth in Item V above.

Respectfully submitted,

O'MELVENY & MYERS LLP

Dated: 10/14/03

By: 

Michael S. Davidson  
Reg. No. 43,577

MSD/dnd  
Enclosures

Nanogen, Inc.

Name of Assignee

10398 Pacific Center Court, San Diego, CA 92121

Address of Assignee

Mary Ann Stretch, Sr. Director, Intellectual Property and Licensing

Title of person authorized to sign on behalf of assignee

Recorded in PTO: February 26, 1999 recorded at reel 9804, frame 0158